

**IN THE U.S. DISTRICT COURT OF THE UNITED STATES
FOR MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CEDRIC PUCH, #182373

Plaintiff,

V.

CIVIL ACTION NO. 2:06-CV-00363-MEF
{WO}

**ALABAMA CORRECTION
INDUSTRIES, COMMISSIONER
BUTCH GALLOWAY, et al.,**

Defendants.

ANSWER

COMES NOW Defendant Tai Q. Chung, M.D., by and through his attorney of record, and for answer to the Plaintiff's Complaint filed herein, states the following:

1. Plaintiff's Complaint fails to state a claim against Defendant Chung upon which relief can be granted.

2. Defendant Chung denies each and every material allegation contained in the Plaintiff's Complaint and demands strict proof thereof.

FIRST DEFENSE

1. The medical care and services rendered by this defendant to the plaintiff met or exceeded the applicable standard of care.

SECOND DEFENSE

1. Defendant Chung pleads the applicable provisions of the Alabama Medical Liability Act of 1987 and specifically pleads in defense to this action and asserts the applicability of the provisions of '6-5-542 through 6-5-552, *Code of Alabama*.

THIRD DEFENSE

1. The Plaintiff suffered no injury or damage as a result of the acts of which he complains.

2. To the extent the Plaintiff suffered any injury or damage he has failed to mitigate his alleged damages or losses.

FOURTH DEFENSE

1. Defendant Chung pleads lack of subject matter jurisdiction.

FIFTH DEFENSE

1. Defendant Chung avers that the Plaintiff's complaint is due to be dismissed due to the failure to comply with the requirements of Section 6-5-551, Code of Alabama, 1975 as amended.

SIXTH DEFENSE

1. Defendant Chung pleads the general issue.

SEVENTH DEFENSE

1. Defendant Chung denies any causal relationship between any alleged wrongful conduct on his part and any alleged damages or injuries claimed in the Plaintiff's complaint.

EIGHTH DEFENSE

Plaintiff's complaint fails to state a claim against this defendant upon which punitive damages may be awarded.

NINTH DEFENSE

Defendants plead the applicability of §6-11-21 *Code of Alabama*.

TENTH DEFENSE

Defendant Chung pleads lack of personal jurisdiction.

ELEVENTH DEFENSE

The Defendant avers that he is not guilty of any violation of the Plaintiff's constitutional rights.

TWELFTH DEFENSE

This Defendant asserts absolute immunity pursuant to Article I, § 14 of the Alabama Constitution.

THIRTEENTH DEFENSE

The Defendant pleads substantive and official capacity immunity.

FOURTEENTH DEFENSE

The Defendant is immune from liability based upon discretionary function immunity.

FIFTEENTH DEFENSE

The Plaintiff has failed to exhaust his administrative remedies.

SIXTEENTH DEFENSE

The Plaintiff has failed to mitigate his damages.

Respectfully submitted,

/s/ E. Ham Wilson, Jr.
E. Ham Wilson, Jr.
Attorney for Tai Q. Chung, M.D.

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on this June 6, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Jason Matthew Bledsoe
Office of the Attorney General
11 South Union Street
Montgomery, AL 36130

The following person, not registered with the CM/ECF system, was served by U.S. mail:

Cedric Pugh #182373
Elmore Correctional Facility
P.O. Box 8
Elmore, AL 36025

by placing same in the U.S. mail postage prepaid on this the 6th day of June, 2006.

/s/ E. Ham Wilson, Jr.
OF COUNSEL